

Applicant: Westhoff et al.
Application No.: 09/395,106

IN THE CLAIMS

Cancel claims 27 and 42-44.

Kindly amend claim 41 as follows:

41. (Amended) An insert which is embedded in a cast member for force-fittingly receiving a leg portion of a step, said insert being comprised of:

a hollow, substantially cylindrical-shaped, elongated housing having a generally smooth cylindrical outer surface and having an open end and a closed end;

DI one of said ends having a flange lying in a plane perpendicular to a longitudinal axis of said housing; and

an interior surface of said housing having a portion thereof provided with a plurality of annular inwardly projecting spaced apart projections; and

said closed end having an exterior surface with at least a portion of the exterior surface lying in a plane being inclined relative to said longitudinal axis.

Kindly cancel non-elected claims 1-20, 28, 29 and 37-40.

REMARKS

The present application contains claims 21-26, 30-36, 41 and 45. Claims 27, 42 and 43 have been canceled, without prejudice, to applicant in order to expedite the prosecution of the present application.

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Claim 44 has been canceled and its limitations have been added to claim 41.

Claims 30-36 stand allowed as per the last official action.

Claims 21-26 and 41-44 have been rejected under 35 U.S.C. §102(b) as anticipated by Brooks. This rejection is respectfully traversed.

Applicant wishes to thank Examiner Tran A for the courtesy of conducting a personal interview on August 15, 2002 and for the helpful comments put forth in order to expedite the prosecution of the present application.

As was pointed out during the telephone interview, claim 21 recites "one of the open end and a closed end having a flange lying in a plane diagonally aligned with a longitudinal axis of said housing." Support for this language can be found, for example, in the specification at page 24, lines 16-19.

As was further pointed out during the interview, applicant recited the definition of the word "plane" taken from Webster's Third New International Dictionary, which recites a plane as "a surface such that the straight line that joins **any** two of its points lies wholly in that surface: A two-dimensional extent of zero curvature: A surface any intersection of which by a like surface is a straight line. Definition "b" states "a flat or level material surface < an incline ~ >".

Making reference to Brooks there is taught therein a flange 2 shown in both Figs. 1 and 2, which, in the right-hand column of the specification at lines 64-66 the "flanged inner end of the socket" is described as "frusto - conical and of considerable

diameter". It is clear from the description of flange 2 of Brooks that the frusto - conical flange 2 clearly does not lie in a plane since it is a conical surface.

The Brooks' socket is used in a different application from that of the present invention. Figs. 1 and 2 show that the Brooks' socket is mounted to a concrete form by the use of nails or other fastening means to secure the socket to a form which, it should be noted, has *no opening*. The concrete is then poured into the form.

The present invention, and the embodiment shown in Fig. 7 has a diagonally aligned flange 60f which serves to cover an opening in a curved, inner mold member 50 to protect cast material from seeping through the opening. Similarly, in the embodiment shown in Fig. 8 the diagonally aligned flange 60d' substantially covers an opening 56b in a curved mold member 56 to prevent seepage of cast material from the mold assembly through the opening.

Brooks fails to recognize the problem recognized by the present invention and thus fails to teach a solution for this problem. The frusto - conical flange 2 of Brooks has the function of affording "ample anchorage to the socket, thus resisting withdrawal or displacement from or in the concrete mass." See the specification of Brooks, right-hand column, lines 66-68.

In view of the foregoing comments it is submitted that claim 21 patentably distinguishes over Brooks and reconsideration and allowance of claim 21 is earnestly solicited.

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Claim 41, as amended to include the limitations of claim 44 is also deemed to patentably distinguish over Brooks.

Claims 22-26 and 45 all depend from claim 21 or from a claim which depends from claim 21 and hence are deemed to patentably distinguish over Brooks for the same reasons set forth hereinabove.

Claims 21-26, 45 and 46 have been rejected under 35 U.S.C. §103(a) is unpatentable over Brooks in view of Summerlin et al. This rejection is respectfully traversed. Brooks, as was pointed out hereinabove, fails to teach or even remotely suggest a flange which lies in a plane diagonally aligned relative to the longitudinal axis of the insert.

Summerlin is relied upon as teaching internal projections having a tapering cross section as defined by a first surface diagonally aligned with the longitudinal axis and facing an open end and a second surface perpendicular to said longitudinal axis and facing another end. In addition to the fact that Summerlin teaches a socket 11 having an enlarged head 15 and lined with a *deformable* inner liner 14 and thus fails to teach an insert which has a housing whose interior surface is provided with projections as opposed to being provided with a deformable liner, which will generally assume the configuration of the member pressed into the deformable liner, Summerlin is also lacking in the teachings not found in Brooks, namely a lack of teaching of a flange lying in a plane which is diagonally aligned to a longitudinal axis of the insert

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and in view thereof, it is submitted that Summerlin fails to provide the teaching lacking in Brooks and that claims 21-26, 45 and 46 patentably distinguish thereover.

Claim 27 has been rejected under 35 U.S.C. §103(a) as unpatentable over Ditcher '615 in view of Peacock and Sawdon (patent '059). In view of the fact that claim 27 has been canceled without prejudice to applicant it is submitted that this rejection is now moot.

It is noted that claims 30-36 stand allowed.

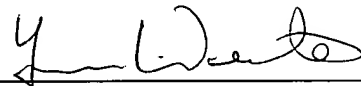
Claims 22-26, 45 and 46 all depend from claim 21 and hence are deemed to patentably distinguish over the combination of Brooks in view of Summerlin et al. for the same reasons set forth hereinabove with regard to claim 21.

In view of the foregoing, it is submitted that claims 21-26, 41, 45 and 46 patentably distinguish over the art of record and reconsideration and allowance of these claims, together with allowed claims 30-36, are earnestly solicited.

Favorable action is awaited.

Respectfully submitted,

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**37 CFR §1.121(b)(1)(iii) and (c)(1)(ii) SPECIFICATION
AND CLAIM AMENDMENTS- MARKED UP VERSION**

41. (Amended) An insert which is embedded in a cast member for force-fittingly receiving a leg portion of a step, said insert being comprised of:

a hollow, substantially cylindrical-shaped, elongated housing having a generally smooth cylindrical outer surface and having an open end and a closed end;

one of said ends having a flange lying in a plane perpendicular to a longitudinal axis of said housing; and

an interior surface of said housing having a portion thereof provided with a plurality of annular inwardly projecting spaced apart projections; and

said closed end having an exterior surface with at least a portion of the exterior surface lying in a plane being inclined relative to said longitudinal axis.